

Part 1 General Provisions

48-2e-101 Title.

This chapter is known as the "Utah Uniform Limited Partnership Act."

Enacted by Chapter 412, 2013 General Session

48-2e-102 Definitions.

As used in this chapter:

- (1) "Certificate of limited partnership" means the certificate required by Section 48-2e-201. The term includes the certificate as amended or restated.
- (2) "Contribution," except in the phrase "right of contribution," means property or a benefit described in Section 48-2e-501 which is provided by a person to a limited partnership to become a partner or in the person's capacity as a partner.
- (3) "Debtor in bankruptcy" means a person that is the subject of:
 - (a) an order for relief under Title 11 of the United States Code or a comparable order under a successor statute of general application; or
 - (b) a comparable order under federal, state, or foreign law governing insolvency.
- (4) "Distribution" means a transfer of money or other property from a limited partnership to a person on account of a transferable interest or in the person's capacity as a partner. The term:
 - (a) includes:
 - (i) a redemption or other purchase by a limited partnership of a transferable interest; and
 - (ii) a transfer to a partner in return for the partner's relinquishment of any right to participate as a partner in the management or conduct of the limited partnership's activities and affairs or to have access to records or other information concerning the limited partnership's activities and affairs; and
 - (b) does not include amounts constituting reasonable compensation for present or past service or payments made in the ordinary course of business under a bona fide retirement plan or other bona fide benefits program.
- (5) "Division" means the Division of Corporations and Commercial Code.
- (6) "Foreign limited liability limited partnership" means a foreign limited partnership whose general partners have limited liability for the debts, obligations, or other liabilities of the foreign limited partnership under a provision similar to Subsection 48-2e-404(3).
- (7) "Foreign limited partnership" means an unincorporated entity formed under the law of a jurisdiction other than this state which would be a limited partnership if formed under the law of this state. The term includes a foreign limited liability limited partnership.
- (8) "General partner" means a person that:
 - (a) has become a general partner under Section 48-2e-401 or was a general partner in a limited partnership when the limited partnership became subject to this chapter under Section 48-2e-1205; and
 - (b) has not dissociated as a general partner under Section 48-2e-603.
- (9) "Jurisdiction," used to refer to a political entity, means the United States, a state, a foreign country, or a political subdivision of a foreign country.
- (10) "Jurisdiction of formation" means, with respect to an entity, the jurisdiction:
 - (a) under whose law the entity is formed; or

- (b) in the case of a limited liability partnership or foreign limited liability partnership, in which the partnership's statement of qualification is filed.
- (11) "Limited liability limited partnership," except in the phrase "foreign limited liability limited partnership," means a limited partnership whose certificate of limited partnership states that the partnership is a limited liability limited partnership.
- (12) "Limited partner" means a person that:
 - (a) has become a limited partner under Section 48-2e-301 or was a limited partner in a limited partnership when the limited partnership became subject to this chapter under Section 48-2e-1205; and
 - (b) has not dissociated under Section 48-2e-601.
- (13) "Limited partnership" means an entity formed under this chapter or which becomes subject to this chapter under Part 11, Merger, Interest Exchange, Conversion, and Domestication, or Section 48-2e-1205. The term includes a limited liability limited partnership.
- (14) "Partner" means a limited partner or general partner.
- (15) "Partnership agreement" means the agreement, whether or not referred to as a partnership agreement, and whether oral, implied, in a record, or in any combination thereof, of all the partners of a limited partnership concerning the matters described in Subsection 48-2e-112(1). The term includes the agreement as amended or restated.
- (16) "Person" means an individual, business corporation, nonprofit corporation, partnership, limited partnership, limited liability company, limited cooperative association, unincorporated nonprofit association, statutory trust, business trust, common-law business trust, estate, trust, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.
- (17) "Principal office" means the principal executive office of a limited partnership or foreign limited partnership, whether or not the office is located in this state.
- (18) "Property" means all property, whether real, personal, or mixed or tangible or intangible, or any right or interest therein.
- (19) "Record," used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
- (20) "Registered agent" means an agent of a limited partnership or foreign limited partnership which is authorized to receive service of any process, notice, or demand required or permitted by law to be served on the limited partnership.
- (21) "Registered foreign limited partnership" means a foreign limited partnership that is registered to do business in this state pursuant to a statement of registration filed by the division.
- (22) "Required information" means the information that a limited partnership is required to maintain under Section 48-2e-115.
- (23) "Sign" means, with present intent to authenticate or adopt a record:
 - (a) to execute or adopt a tangible symbol; or
 - (b) to attach to or logically associate with the record an electronic symbol, sound, or process.
- (24) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.
- (25) "Transfer" includes:
 - (a) an assignment;
 - (b) a conveyance;
 - (c) a sale;
 - (d) a lease;
 - (e) an encumbrance, including a mortgage or security interest;

- (f) a gift; and
- (g) a transfer by operation of law.
- (26) "Transferable interest" means the right, as initially owned by a person in the person's capacity as a partner, to receive distributions from a limited partnership in accordance with the partnership agreement, whether or not the person remains a partner or continues to own any part of the right. The term applies to any fraction of the interest, by whomever owned.
- (27) "Transferee" means a person to which all or part of a transferable interest has been transferred, whether or not the transferor is a partner. The term includes a person that owns a transferable interest under Subsection 48-2e-602(1)(c) or 48-2e-605(1)(d).
- (28) "Tribal limited partnership" means a limited partnership:
 - (a) formed under the law of a tribe; and
 - (b) that is at least 51% owned or controlled by the tribe under whose law the limited partnership is formed.
- (29) "Tribe" means a tribe, band, nation, pueblo, or other organized group or community of Indians, including an Alaska Native village, that is legally recognized as eligible for and is consistent with a special program, service, or entitlement provided by the United States to Indians because of their status as Indians.

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48-2e-103 Knowledge -- Notice.

- (1) A person knows a fact if the person:
 - (a) has actual knowledge of it; or
 - (b) is deemed to know it under law other than this chapter.
- (2) A person has notice of a fact if the person:
 - (a) has reason to know the fact from all of the facts known to the person at the time in question; or
 - (b) is deemed to have notice of the fact under Subsection (3) or (4).
- (3) A certificate of limited partnership on file in the office of the division is notice that the partnership is a limited partnership and the persons designated in the certificate as general partners are general partners. Except as otherwise provided in Subsection (4), the certificate is not notice of any other fact.
- (4) A person not a partner is deemed to have notice of:
 - (a) another person's dissociation as a general partner 90 days after the effective date of an amendment to the certificate of limited partnership which states that the other person has dissociated or 90 days after the effective date of a statement of dissociation pertaining to the other person, whichever occurs first;
 - (b) a limited partnership's:
 - (i) dissolution 90 days after an amendment to the certificate of limited partnership stating that the limited partnership becomes effective;
 - (ii) termination 90 days after a statement of termination under Subsection 48-2e-802(2)(b)(vi) becomes effective;
 - (iii) participation in a merger, interest exchange, conversion, or domestication 90 days after a statement of merger, interest exchange, conversion, or domestication under Part 11, Merger, Interest Exchange, Conversion, and Domestication, becomes effective; and
 - (iv) abandonment of a merger, interest exchange, conversion, or domestication 90 days after a statement of abandonment of merger, interest exchange, conversion, or domestication

under Part 11, Merger, Interest Exchange, Conversion, and Domestication, becomes effective.

- (5) Subject to Subsection 48-2e-209(6), a person notifies another person of a fact by taking steps reasonably required to inform the other person in ordinary course, whether or not those steps cause the other person to know the fact.
- (6) A general partner's knowledge or notice of a fact relating to the limited partnership is effective immediately as knowledge of or notice to the limited partnership, except in the case of a fraud on the limited partnership committed by or with the consent of the general partner. A limited partner's knowledge or notice of a fact relating to the limited partnership is not effective as knowledge of or notice to the limited partnership.

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48-2e-104 Nature, purpose, and duration of limited partnership.

- (1) A limited partnership is an entity distinct from its partners. A limited partnership is the same entity regardless of whether its certificate states that the limited partnership is a limited liability limited partnership.
- (2) A limited partnership may have any lawful purpose, regardless of whether for profit.
- (3) A limited partnership has perpetual duration.

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48-2e-105 Powers.

A limited partnership has the capacity to sue and be sued in its own name and the power to do all things necessary or convenient to carry on its activities and affairs.

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48-2e-106 Governing law.

The law of this state governs:

- (1) the internal affairs of a limited partnership; and
- (2) the liability of a partner as partner for the debts, obligations, or other liabilities of a limited partnership.

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48-2e-107 Supplemental principles of law.

Unless displaced by particular provisions of this chapter, the principles of law and equity supplement this chapter.

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48-2e-108 Permitted names.

- (1) The name of a limited partnership may contain the name of any partner.
- (2) The name of a limited partnership that is not a limited liability limited partnership must contain the words "limited partnership" or the abbreviation "L.P." or "LP" and may not contain the words "limited liability limited partnership" or the abbreviation "L.L.L.P." or "LLLLP".

- (3) The name of a limited liability limited partnership must contain the words "limited liability limited partnership" or the abbreviation "LLLP" or "L.L.L.P." and must not contain the abbreviation "L.P." or "LP".
- (4) Except as otherwise provided in Subsection (7), the name of a limited partnership, and the name under which a foreign limited partnership may register to do business in this state, must be distinguishable on the records of the division from:
 - (a) the name of an existing person whose formation required the filing of a record by the division;
 - (b) the name of a limited liability partnership;
 - (c) the name of a person that is registered to do business in this state by the filing of a record by the division;
 - (d) each name reserved under Section 48-2e-109 or other law of this state providing for the reservation of a name by the filing of a record by the division;
 - (e) each name registered under Section 48-2e-110 or other law of this state providing for the registration of a name by the filing of a record by the division; or
 - (f) an assumed name registered under Title 42, Chapter 2, Conducting Business Under Assumed Name.
- (5) If a person consents in a record to the use of its name and submits an undertaking in a form satisfactory to the division to change its name to a name that is distinguishable on the records of the division from any name in any category of names in Subsection (4), the name of the consenting person may be used by the person to which the consent was given.
- (6) Except as otherwise provided in Subsection (7), in determining whether a name is the same as or not distinguishable on the records of the division from the name of another entity, words, phrases, or abbreviations indicating the type of entity, such as "corporation", "corp.", "incorporated", "Inc.", "professional corporation", "PC", "P.C.", "professional association", "PA", "P.A.", "Limited", "Ltd.", "limited partnership", "LP", "L.P.", "limited liability partnership", "LLP", "L.L.P.", "registered limited liability partnership", "RLLP", "R.L.L.P.", "limited liability limited partnership", "LLLP", "L.L.L.P.", "registered limited liability limited partnership", "RLLLP", "R.L.L.L.P.", "limited liability company", "LLC", "L.L.C.", "professional limited liability company", "PLLC", or "P.L.L.C.", may not be taken into account.
- (7) A person may consent in a record to the use of a name that is not distinguishable on the records of the division from its name except for the addition of a word, phrase, or abbreviation indicating the type of person as provided in Subsection (6). In such a case, the person need not change its name pursuant to Subsection (5).
- (8) The division may not approve for filing a name that implies that a limited partnership is an agency of this state or any of its political subdivisions, if it is not actually such a legally established agency or subdivision.
- (9) The authorization to file a certificate under or to reserve or register a limited partnership name as granted by the division does not:
 - (a) abrogate or limit the law governing unfair competition or unfair trade practices;
 - (b) derogate from the common law, the principles of equity, or the statutes of this state or of the United States with respect to the right to acquire and protect names and trademarks; or
 - (c) create an exclusive right in geographic or generic terms contained within a name.
- (10) The name of a limited partnership or foreign limited partnership may not contain:
 - (a) the words:
 - (i) "association";
 - (ii) "corporation";
 - (iii) "incorporated";
 - (iv) "limited liability company"; or

- (v) "limited company";
- (b) any word or abbreviation that is of like import to the words listed in Subsection (10)(a);
- (c) without the written consent of the United States Olympic Committee, the words:
 - (i) "Olympic";
 - (ii) "Olympiad"; or
 - (iii) "Citius Altius Fortius"; and
- (d) without the written consent of the Division of Consumer Protection issued in accordance with Section 13-34-114 the words:
 - (i) "university";
 - (ii) "college"; or
 - (iii) "institute" or "institution".

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48-2e-109 Reservation of name.

- (1) A person may reserve the exclusive use of a name that complies with Section 48-2e-108 by delivering an application to the division for filing. The application must state the name and address of the applicant and the name to be reserved. If the division finds that the name is available, the division shall reserve the name for the applicant's exclusive use for 120 days.
- (2) The owner of a reserved name may transfer the reservation to another person by delivering to the division a signed notice in a record of the transfer which states the name and address of the transferee.

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48-2e-110 Registration of name.

- (1) A foreign limited partnership not registered to do business in this state under Part 9, Foreign Limited Partnerships, may register its name, or an alternate name adopted pursuant to Section 48-2e-906, if the name is distinguishable on the records of the division from the names that are not available under Section 48-2e-108.
- (2) To register its name or an alternate name adopted pursuant to Section 48-2e-906, a foreign limited partnership must deliver to the division for filing an application stating the foreign limited partnership's name, the jurisdiction and date of its formation, and any alternate name adopted pursuant to Section 48-2e-906. If the division finds that the name applied for is available, the division shall register the name for the applicant's exclusive use.
- (3) The registration of a name under this section is effective for one year after the date of registration.
- (4) A foreign limited partnership whose name registration is effective may renew the registration for successive one-year periods by delivering, not earlier than three months before the expiration of the registration, to the division for filing a renewal application that complies with this section. When filed, the renewal application renews the registration for a succeeding one-year period.
- (5) A foreign limited partnership whose name registration is effective may register as a foreign limited partnership under the registered name or consent in a signed record to the use of that name by another person that is not an individual.

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48-2e-111 Registered agent.

- (1) Each limited partnership and each registered foreign limited partnership shall designate in accordance with Section 16-17-203(1) and maintain a registered agent in this state.
- (2) A limited partnership or registered foreign limited partnership may change its registered agent or the address of its registered agent by filing with the division a statement of change in accordance with Section 16-17-206.

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48-2e-112 Partnership agreement -- Scope, function, and limitations.

- (1) Except as otherwise provided in Subsections (3) and (4), the partnership agreement governs:
 - (a) relations among the partners as partners and between the partners and the limited partnership;
 - (b) the activities and affairs of the limited partnership and the conduct of those activities and affairs; and
 - (c) the means and conditions for amending the partnership agreement.
- (2) To the extent the partnership agreement does not provide for a matter described in Subsection (1), this chapter governs the matter.
- (3) A partnership agreement may not:
 - (a) vary a limited partnership's capacity under Section 48-2e-105 to sue and be sued in its own name;
 - (b) vary the law applicable under Section 48-2e-106;
 - (c) vary any requirement, procedure, or other provision of this chapter pertaining to:
 - (i) registered agents; or
 - (ii) the division, including provisions pertaining to records authorized or required to be delivered to the division for filing under this chapter;
 - (d) vary the provisions of Section 48-2e-204;
 - (e) vary the right of a general partner under Subsection 48-2e-406(2)(b) to vote on or consent to an amendment to the certificate of limited partnership which deletes a statement that the limited partnership is a limited liability limited partnership;
 - (f) eliminate the duty of loyalty or the duty of care except as otherwise provided in Subsection (4);
 - (g) eliminate the contractual obligation of good faith and fair dealing under Subsections 48-2e-305(1) and 48-2e-409(4), but the partnership agreement may prescribe the standards, if not unconscionable or against public policy, by which the performance of the obligation is to be measured;
 - (h) relieve or exonerate a person from liability for conduct involving bad faith, willful misconduct, or recklessness;
 - (i) vary the information required under Section 48-2e-115 or unreasonably restrict the duties and rights under Section 48-2e-304 or 48-2e-407, but the partnership agreement may impose reasonable restrictions on the availability and use of information obtained under those sections and may define appropriate remedies, including liquidated damages, for a breach of any reasonable restriction on use;
 - (j) vary the power of a person to dissociate as a general partner under Subsection 48-2e-604(1) except to require that the notice under Subsection 48-2e-603(1) be in a record;
 - (k) vary the causes of dissolution specified in Subsection 48-2e-801(1)(f);
 - (l) vary the requirement to wind up the limited partnership's activities and affairs as specified in Subsections 48-2e-802(1), (2)(a), and (4);
 - (m) unreasonably restrict the right of a partner to maintain an action under Part 10, Actions by Partners;

- (n) vary the provisions of Section 48-2e-1005, but the partnership agreement may provide that the limited partnership may not have a special litigation committee;
 - (o) vary the right of a partner to approve a merger, interest exchange, conversion, or domestication under Subsection 48-2e-1123(1)(b), 48-2e-1133(1)(b), 48-2e-1143(1)(b), or 48-2e-1153(1)(b); or
 - (p) except as otherwise provided in Section 48-2e-113 and Subsection 48-2e-114(2), restrict the rights under this chapter of a person other than a partner.
- (4) Subject to Subsection (3)(h), without limiting other terms that may be included in a partnership agreement, the following rules apply:
- (a) The partnership agreement may specify the method by which a specific act or transaction that would otherwise violate the duty of loyalty may be authorized or ratified by one or more disinterested and independent persons after full disclosure of all material facts.
 - (b) If not unconscionable or against public policy, the partnership agreement may:
 - (i) alter or eliminate the aspects of the duty of loyalty stated in Subsection 48-2e-409(2);
 - (ii) identify specific types or categories of activities that do not violate the duty of loyalty;
 - (iii) alter the duty of care, but may not authorize intentional misconduct or knowing violation of law; and
 - (iv) alter or eliminate any other fiduciary duty.
- (5) The court shall decide as a matter of law whether a term of a partnership agreement is unconscionable or against public policy under Subsection (3)(g) or (4)(b). The court:
- (a) shall make its determination as of the time the challenged term became part of the partnership agreement and by considering only circumstances existing at that time; and
 - (b) may invalidate the term only if, in light of the purposes, activities, and affairs of the limited partnership, it is readily apparent that:
 - (i) the objective of the term is unconscionable or against public policy; or
 - (ii) the means to achieve the term's objective is unconscionable or against public policy.

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48-2e-113 Partnership agreement -- Effect on limited partnership and person becoming partner -- Preformation agreement.

- (1) A limited partnership is bound by and may enforce the partnership agreement, whether or not the limited partnership has itself manifested assent to the partnership agreement.
- (2) A person that becomes a partner of a limited partnership is deemed to assent to the partnership agreement.
- (3) Two or more persons intending to become the initial partners of a limited partnership may make an agreement providing that upon the formation of the limited partnership the agreement will become the limited partnership agreement.

Enacted by Chapter 412, 2013 General Session

48-2e-114 Partnership agreement -- Effect on third parties and relationship to records effective on behalf of limited partnership.

- (1) A partnership agreement may specify that its amendment requires the approval of a person that is not a party to the partnership agreement or the satisfaction of a condition. An amendment is ineffective if its adoption does not include the required approval or satisfy the specified condition.

- (2) The obligations of a limited partnership and its partners to a person in the person's capacity as a transferee or person dissociated as a partner are governed by the partnership agreement. Subject only to a court order issued under Subsection 48-2e-703(2)(b) to effectuate a charging order, an amendment to the partnership agreement made after a person becomes a transferee or is dissociated as a partner:
 - (a) is effective with regard to any debt, obligation, or other liability of the limited partnership or its partners to the person in the person's capacity as a transferee or person dissociated as a partner; and
 - (b) is not effective to the extent the amendment imposes a new debt, obligation, or other liability on the transferee or person dissociated as a partner.
- (3) If a record delivered by a limited partnership to the division for filing becomes effective and contains a provision that would be ineffective under Subsection 48-2e-112(3) or (4)(b) if contained in the partnership agreement, the provision is ineffective in the record.
- (4) Subject to Subsection (3), if a record delivered by a limited partnership to the division for filing becomes effective and conflicts with a provision of the partnership agreement:
 - (a) the partnership agreement prevails as to partners, persons dissociated as partners, and transferees; and
 - (b) the record prevails as to other persons to the extent they reasonably rely on the record.

Enacted by Chapter 412, 2013 General Session

48-2e-115 Required information.

A limited partnership shall maintain at its principal office the following information:

- (1) a current list showing the full name and last known street and mailing address of each partner, separately identifying the general partners, in alphabetical order, and the limited partners, in alphabetical order;
- (2) a copy of the initial certificate of limited partnership and all amendments to and restatements of the certificate, together with signed copies of any powers of attorney under which any certificate, amendment, or restatement has been signed;
- (3) a copy of any filed statement of merger, interest exchange, conversion, or domestication;
- (4) a copy of the limited partnership's federal, state, and local income tax returns and reports, if any, for the three most recent years;
- (5) a copy of any partnership agreement made in a record and any amendment made in a record to any partnership agreement;
- (6) a copy of any financial statement of the limited partnership for the three most recent years;
- (7) a copy of the three most recent annual reports delivered by the limited partnership to the division pursuant to Section 48-2e-212;
- (8) a copy of any record made by the limited partnership during the past three years of any consent given by or vote taken of any partner pursuant to this chapter or the partnership agreement; and
- (9) unless contained in a partnership agreement made in a record, a record stating:
 - (a) a description and statement of the agreed value of contributions other than money made and agreed to be made by each partner;
 - (b) the times at which, or events on the happening of which, any additional contributions agreed to be made by each partner are to be made;
 - (c) for any person that is both a general partner and a limited partner, a specification of what transferable interest the person owns in each capacity; and

- (d) any events upon the happening of which the limited partnership is to be dissolved and its activities and affairs wound up.

Enacted by Chapter 412, 2013 General Session

48-2e-116 Dual capacity.

A person may be both a general partner and a limited partner. A person that is both a general and limited partner has the rights, powers, duties, and obligations provided by this chapter and the partnership agreement in each of those capacities. When the person acts as a general partner, the person is subject to the obligations, duties, and restrictions under this chapter and the partnership agreement for general partners. When the person acts as a limited partner, the person is subject to the obligations, duties, and restrictions under this chapter and the partnership agreement for limited partners.

Enacted by Chapter 412, 2013 General Session

48-2e-117 Delivery of record.

- (1) Except as otherwise provided in this chapter, permissible means of delivery of a record include delivery by hand, the United States Postal Service, a commercial delivery service, and electronic transmission.
- (2) Delivery to the division is effective only when a record is received by the division.

Enacted by Chapter 412, 2013 General Session

48-2e-118 Reservation of power to amend or repeal.

The Legislature of this state has power to amend or repeal all or part of this chapter at any time, and all domestic and foreign limited partnerships subject to this chapter are governed by the amendment or repeal.

Enacted by Chapter 412, 2013 General Session